

**BEFORE THE DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA**

MAXIM CAPITAL, INC.

Petitioner

vs.

GEORGIA DEPARTMENT OF
BANKING AND FINANCE

Respondent

CHIAN "KEN" C. KEE

Petitioner

vs.

GEORGIA DEPARTMENT OF
BANKING AND FINANCE

Respondent

FILED

JUN 29 2011

GEORGIA DEPARTMENT OF
BANKING AND FINANCE

DOCKET NO. DBF-MBL-11-06

CONSENT ORDER

On May 11, 2011, the Georgia Department of Banking and Finance ("Department") issued a proposed Notice of Intent to Revoke Annual License to Maxim Capital, Inc. dba Maxim Home Loans ("Maxim Capital"), mortgage broker license number 12317, Nationwide Mortgage Licensing System ("NMLS") number 67273, for violations of the Georgia Residential Mortgage Act, O.C.G.A. § 7-1-1000 *et seq.* ("GRMA"), including making false statements or misrepresenting material facts to lenders in violation of O.C.G.A. § 7-1-1013(1), (2) and (6); transacting business with a person who is unlicensed and unregistered, not exempt from licensing and registration requirements in violation of O.C.G.A. § 7-1-1002(a) and (b); and, directly or indirectly controlling a person who violated O.C.G.A. § 7-1-1002(a) and (b) in violation of O.C.G.A. § 7-1-1002(c).

On this same day, the Department issued a proposed Order to Cease and Desist to Chian “Ken” C. Kee, owner and president of Maxim Capital for making false statements or misrepresenting material facts to lenders in violation of O.C.G.A. § 7-1-1013(1), (2) and (6); transacting business with a person who is unlicensed and unregistered, not exempt from licensing and registration requirements in violation of O.C.G.A. § 7-1-1002(a) and (b); and, directly or indirectly controlling a person who violated O.C.G.A. § 7-1-1002(a) and (b) in violation of O.C.G.A. § 7-1-1002(c).

On May 25, 2011, hearings were requested to appeal the Notice of Intent to Revoke issued to Maxim Capital and the proposed Order to Cease and Desist issued to Mr. Kee.

The parties have reached a settlement of the issues raised by the proposed Notice of Intent to Revoke Annual License and the proposed Order to Cease and Desist and have agreed to a resolution of those matters in their entirety.

Accordingly, it is hereby ORDERED as follows:

1. Maxim Capital will strictly comply with the terms of this Consent Order, the Georgia Fair Lending Act, O.C.G.A. § 7-6A-1 *et seq.*, and GRMA, as well as the Department’s Rules enacted pursuant thereto. Failure to do so may result in additional administrative action being brought against Maxim Capital and any of its employees or agents.

2. Maxim Capital shall develop and implement policies, procedures, and practices that will ensure compliance with all applicable Georgia Laws and Regulations. Maxim Capital shall adopt best practices, including but not limited to the following:

- a. Maxim Capital shall immediately implement measures to ensure that its business operations and employees are subject to an appropriate level of supervision at all times by Mr. Kee. For the purposes of this Consent

Order, “supervision” shall mean daily management and oversight by Mr. Kee that is reasonably designed to result in compliance with GRMA, and the rules of the Department by loan originators, processors and other individuals in the employ of Maxim Capital.

- b. Maxim Capital shall perform background checks for all new employees before or within 10 days of their initial hire. All background checks of employees that handle Georgia residential loan transactions shall be processed by the Georgia Crime Information Center. No individual shall be employed by Maxim Capital if he or she is a first offender under sentence for the commission of a felony; entered a plea of nolo contendere to a felony charge; has been adjudicated without guilt for the commission of a felony; or has entered a plea to or has been convicted of a felony for which an official certification or pardon has not been obtained that removes the legal disabilities resulting from such conviction and restores civil and political rights. Maxim Capital will have the Georgia Crime Information Center perform background checks annually on its existing employees. Results of background checks shall be maintained in employees’ personnel files and made available to the Department upon request.
- c. Maxim Capital shall not directly or indirectly transact business as a mortgage broker in the State of Georgia with any unlicensed “person,” as defined by the Georgia Residential Mortgage Act, unless the person is

exempt from the licensing or registration requirements under O.C.G.A. § 7-1-1001.

- d. Maxim Capital shall ensure that all Maxim Capital employees, including licensed mortgage loan originators, claiming the employee exemption to mortgage broker licensing shall be at all times eligible for employment in compliance with the provisions and prohibitions of O.C.G.A. § 7-1-1004 as provided by O.C.G.A. § 7-1-1001(14) and meet the following criteria provided by Department Rule 80-11-4.03(2):
 - i. An employee must be employed by just one licensee or exemptee and work exclusively for that person;
 - ii. An employee may not solicit, process, or place loans for anyone else while claiming the exemption;
 - iii. An employee's procedures and activities must be supervised by the licensee or exemptee on a daily basis, and the licensee or exemptee is responsible for the actions of such employee. This requirement is intended to make it clear that employers control and are accountable for the actions of their employees; and,
 - iv. An employee may not be paid or compensated for performance of mortgage activity as an independent contractor or on a 1099 basis, except as specifically provided for in Department Rule 80-11-4.03(3).
- e. Maxim Capital shall within ten (10) days after knowledge of the event, report in writing to the Department:

- i. any suspicion, knowledge or discovery of an act prohibited by O.C.G.A § 7-1-1013, including mortgage fraud; and,
- ii. the discharge of any employee for dishonest or fraudulent acts.

3. Maxim Capital shall adopt best practices for Quality Control and Fraud Prevention and Detection. For purposes of this Consent Order, “Quality Control” shall mean a system for ensuring the maintenance of proper loan origination and processing standards, especially by periodic, random inspection, to include but not limited to:

- a. Maxim Capital shall maintain a record of the license numbers or exemption status of any loan originator, broker, lender or processor with whom Maxim Capital conducts business. This includes verifying the status of mortgage loan originator, broker and lender licenses as well as the entry of any final administrative actions on the Department’s website (www.dbf.georgia.gov) and the Department’s Mortgage Summary publication on a monthly basis.
- b. Maxim Capital shall segregate, and expressly state in written policies and procedures, the assigned duties for both loan originators and loan processors. For purpose of this Consent Order, the term “loan processor” shall mean generally an employee who collects and/or verifies from a borrower or other person, information that is necessary to underwrite or to submit for underwriting, a mortgage loan application package and any activities, including but not limited to, those provided in Department Rule 80-11-4-.07(3). Maxim Capital shall not permit any employee to function as both the loan originator and loan processor for any one loan.

- c. Mr. Kee shall personally oversee and supervise loans originated and/or processed for employees and any borrowers related to a current employee.
- d. Mr. Kee shall review Maxim Capital's mortgage loan transaction journal on a monthly basis to maintain personal knowledge of new and pending transactions.
- e. Mr. Kee shall perform a monthly quality control review of a minimum of 10% of the GRMA loans originated prior to being submitted to a lender and 10% of the GRMA loans closed within the month. All multiple borrower transactions shall be reviewed and tracked until final disposition. Maxim Capital must maintain a list of loan files reviewed for purposes of the monthly quality review.
- f. Maxim Capital shall implement, within one (1) year of the entry of this Consent Order, a new hire and continuing education employee training program for all "covered" employees as defined by O.C.G.A. § 7-1-1004(i) regarding what constitutes mortgage fraud and how to detect and avoid its commission, including but not limited to: common mortgage fraud schemes, recognizing red flags in appraisal and loan documents; proper closing procedures; and, proper verifications of employment, rent and deposit. Maxim Capital shall also provide training specifying what actions are to be taken when its employees believe that a borrower is attempting to engage in mortgage fraud by providing false or misleading information and/or documentation to obtain loans from a lender.

4. Mr. Kee shall complete a 4-hour educational course in Mortgage Fraud within 6 months of the entry of this Consent Order. Mr. Kee shall cause to be submitted to the Department a copy of a certificate issued by the education provider(s) documenting his successful completion of this requirement, which subsequently may be verified by this agency. None of the 4 hours of education obtained by Mr. Kee pursuant to this Consent Order shall qualify to be applied towards the Department's continuing education requirement that must be met in order to renew the mortgage broker license of Maxim Capital or mortgage loan originator's license of Mr. Kee during 2011 or after.

5. Within 90 days of the effective date of this Consent Order, Maxim Capital shall provide to the Department a written progress report detailing the actions that have been and will be undertaken to comply with the terms of this Consent Order.

6. All written notifications and requests for approval required by this Consent Order shall be mailed to:

Georgia Department of Banking and Finance
Attention: Director of Mortgage Supervision
2990 Brandywine Road, Suite 200
Atlanta, Georgia 30341

7. Chian "Ken" C. Kee withdraws his request for a hearing regarding the proposed Order to Cease and Desist.

8. The Department shall rescind the proposed Order to Cease and Desist issued to Chian "Ken" C. Kee after the entry of this Consent Order.

9. Maxim Capital withdraws its request for a hearing regarding the Notice of Intent to Revoke.

10. The Department shall withdraw the proposed Notice of Intent to Revoke issued to Maxim Capital after entry of this Consent Order.

11. Maxim Capital shall contribute \$2,000 to the State Regulatory Registry, LLC, a wholly-owned subsidiary of the Conference of State Bank Supervisors ("CSBS") to support the NMLS, jointly sponsored by CSBS and the American Association of Residential Mortgage Regulators. This contribution shall be paid in certified funds, be made payable to the State Regulatory Registry, LLC, and shall be remitted contemporaneously with the entry of this Consent Order.

12. The terms of this Order may be enforced by the Department pursuant to O.C.G.A. §§ 7-1-1017(g) and 7-1-1018(b).

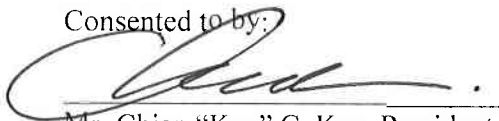
13. The Consent Order shall be regarded as a public document that the Department may publish in the same manner as a final order of this agency.

SO ORDERED AND ENTERED, this 29th day of June 2011.



ROBERT M. BRASWELL
Commissioner
Georgia Department of Banking and Finance

Consented to by:



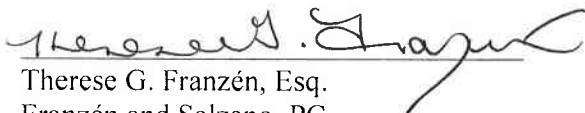
Mr. Chian "Ken" C. Kee, President
Maxim Capital, Inc.
4535 Winters Chapel Road
Doraville, Georgia 30360



Rod Carnes, Deputy Commissioner
Department of Banking and Finance
2990 Brandywine Road, Suite 200
Atlanta, Georgia 30341

In his individual capacity, and as owner and president
of Maxim Capital, Inc.

APPROVED AS TO FORM:



Therese G. Franzén, Esq.
Franzén and Salzano, PC
Attorneys for Petitioners